

PART XI

PROBATE AND ADMINISTRATION MATTERS

117. Hearing of Probate and Administration matters (non-contentious probate proceedings)

- (1) All originating summonses for probate and summonses filed in non-contentious probate proceedings in the Subordinate Courts (“the application(s)”) will not be given a hearing date in the first instance. The cases that are fixed for hearing will be posted on the Notice Board at the Civil Registry and on the Subordinate Courts’ website (<http://www.subcourts.gov.sg>).
- (2) The originating summons for probate will be accepted if it complies with paragraph 118 of these Directions, and a Probate Number will be assigned to the originating summons for probate. An order-in-terms would be granted subsequently if the supporting affidavit under Order 71 rule 5 is in order.
- (3) If there are errors or missing documents in the originating summons for probate and the statement, the originating summons for probate and the statement will be rejected and returned together with a Probate checklist (see Form 40 of Appendix B) identifying the reason(s) for rejection. The onus is on the solicitor concerned to review the rejected documents, having regard to the comments on the Probate checklist, before re-filing the originating summons for probate and the statement.
- (4) In relation to summonses where an order-in-terms is not granted, a hearing will be fixed for the solicitor concerned to attend. The hearing list will be posted on the Notice Board and the Subordinate Courts website as explained at sub-paragraph (1) above.

- (5) Solicitors are also reminded that the identification numbers of the applicant and the deceased must be included in the originating summons pursuant to Paragraph 9 of these Directions.
- (6) In order to minimise disruption to the smooth and expeditious processing of these applications, any enquiry on a pending matter is to be made by way of a letter to the Registrar. The full name of the deceased and his/her identification number, together with the date of the filing of the application(s), must be included in this letter.

118. Originating Summons for grant of probate or letters of administration

- (1) An originating summons for the grant of probate or letters of administration under Order 71, rule 5, of the Rules of Court filed on or after 1 January 2006 shall be submitted together with the statement, through the Electronic Filing Service (EFS) by entering the relevant information in the appropriate electronic template without attaching the document in the *Portable Document Format (PDF)*. Any originating summons filed on or after 1 January 2006 must also be accompanied by a checklist as prescribed in Form 12 of Appendix B to these Directions (“Checklist for OS (Probate)”), which shall also be duly completed and submitted by the filing party by entering the relevant information in the appropriate electronic template.
- (2) The following supporting documents (whichever may be relevant) must be electronically filed in the same submission as related documents, but separately from the originating summons and checklist:
 - (a) in all cases, a certified true copy of the death certificate of the deceased or a certified true copy of the Order of Court for presumption of death of the deceased;
 - (b) where there is a will, a certified true copy of the will;
 - (c) in the case of Muslim estates, a certified true copy of the inheritance certificate; and
 - (d) in relation to deaths occurring on or after 15 February 2008, two copies of Schedule of Assets listing the property comprising the estate of the deceased in accordance with Paragraph 120A of these Directions; and
 - (e) any other documents in support of the originating summons required under the Probate and Administration Act (Cap. 251, 2000 Revised Edition) or the Rules of Court. The administration oath under section 28 of the Probate and Administration Act (Cap. 251, 2000 Revised Edition) may, however, be filed at the same time as the supporting affidavit under Order 71, rule 5, of the Rules of Court as required by sub-paragraph (6).

- (3) Prior to filing the originating summons, the applicant or his solicitor must conduct a search on the caveat book for both Courts to ascertain if there are any caveats in force against the estate of the deceased. The Certificate of Result of Caveat Search (Form 173 of Appendix A to the Rules of Court) together with the search reports for both Courts must be submitted when filing the originating summons.
- (4) If the originating summons and the statement are in order, they will be accepted and a Probate Number will be assigned to the originating summons.
- (5) The original death certificate, original will (if any) and original inheritance certificate (if any) must then be submitted to the Probate Counter for verification by 4.30 p.m. of the next working day after the electronic filing of the originating summons. Where the original will has been retained in the custody of a foreign court, a certified true copy of the will by that foreign court must be submitted in place of the original. After verification, the original will shall be retained by the Probate Counter in compliance with Order 71, rule 47A, of the Rules of Court. The originals of the other documents may be returned to the filing party 3 days after the acceptance by the Court.
- (6) Order 71, rule 5(2), of the Rules of Court provides that the statement, which is filed together with an originating summons for the grant of probate or letters of administration, must be verified by an affidavit of the applicant. For originating summonses filed on or after 1 January 2006, the supporting affidavit under Order 71, rule 5 (“the supporting affidavit”) shall be in the prescribed format in Form 41 of Appendix B and state that the applicant deposes to the truth of the contents of the statement and the exhibits thereto required under Order 71, rule 5(2), of the Rules of Court. The exhibits (apart from the statement and the Schedule of Assets which have already been filed with the originating summons) are to be listed in a “Table of Contents of Exhibits” in the supporting affidavit. These exhibits can then be detached and are not required to be filed together with the supporting affidavit. The supporting affidavit must state that the statement exhibited therein is the

same statement generated by the EFS, and the contents entered into the EFS, and which now appear in the statement are true and accurate. The statement bearing the court seal and the Schedule of Assets are to be exhibited as the first and second exhibits respectively in the supporting affidavit filed. In regards to applications by a trust corporation, the supporting affidavit must in addition, state that the applicant company is a trust company and that it has the power to accept grant, and that the officer has been authorised by the applicant company through a resolution of their board of directors, a certified true copy whereof under the seal of the company is exhibited therein. The supporting affidavit shall be filed within 14 days after the filing of the originating summons.

- (7) No hearing date or order-in-terms of an originating summons for the grant of probate or letters of administration will be given until the supporting affidavit has been filed. An order-in-terms of the originating summons will be granted if all the documents are in order and upon acceptance of the supporting affidavit. Otherwise, a date will be fixed for the hearing of the originating summons.
- (8) If there are errors in the originating summons and the statement or missing documents, the entire set of documents will be rejected and the reason(s) for rejection will be indicated on the Checklist. The onus is on the solicitor concerned to review the rejected documents, having regard to the comments on the Checklist, before re-filing a fresh originating summons and statement.
- (9) Where a party seeks to rectify any errors in the originating summons, an application may be made by way of a summons to amend the originating summons. The draft amended originating summons in PDF format, prepared in accordance with Paragraph 13(2)(b) and (c) of these Directions, should be annexed to the affidavit in support of the summons.
- (10) Where a party seeks to rectify any error in the statement, other than errors that also appear in the originating summons prior to the order for the grant, he may do so by amending the information in the appropriate electronic template *without* attaching the amended statement in *PDF* format, and filing a supplementary affidavit, and stating the reason for

the amendments. Where it is necessary to amend the information in the statement after order is made for the grant, an application must be made by way of summons, together with an affidavit in support and the draft amended statement in PDF format must be annexed to the summons. The Registrar may direct that a fresh supporting affidavit under Order 71, rule 5 be filed by the applicant.

- (11) Where an order-in-terms has been made in the originating summons for the grant of probate or letters of administration and a party seeks to substitute the name of the administrator(s) or add in further administrator(s), an application must be made by way of a summons for the order to be revoked and re-granted. The draft amended originating summons and the amended statement in PDF format, prepared in accordance with Paragraph 13(2)(b) and (c) of these Directions, should be annexed to the summons.
- (12) Where an order-in-terms is made of the application, the party shall, within 14 days of the order or such time as may be permitted in the order of court granting leave to amend, or for the order to be revoked and re-granted, as applicable, file the amended originating summons by entering the relevant amendments in the appropriate electronic template *without* attaching the amended originating summons and the amended statement in *PDF* format. In this respect, Paragraph 13(1), (2)(a), (2)(b) and (4) shall not apply. A fresh supporting affidavit under Order 71, rule 5 must be filed by the applicant together with the amended originating summons and the amended statement.
- (13) As per current practice, all summonses in respect of proceedings under Order 71, rule 5, of the Rules of Court will not be given a hearing date in the first instance. A hearing date will only be given where an order-in-terms is not granted. The hearing date will be indicated on the returned summonses.
- (14) The Court may reject any document which does not comply with the above Directions, or any other directions made by the Court.

119. Applications for dispensation of sureties for grants of letters of administration

- (1) An application for the dispensation of sureties pursuant to section 29(3) of the Probate and Administration Act (Cap 251, 2000 Revised Edition) shall be made by way of a summons supported by an affidavit deposed to by all the administrators and co-administrators (if any) stating:
 - (a) the efforts made to find sureties and/or why sureties cannot be found;
 - (b) that the estate duty is either paid, not payable, postponed or has otherwise been cleared;
 - (c) who the beneficiaries are, their shares to the estate, ages, whether any of the beneficiaries are minors as at the date of the summons application; and whether the adult beneficiaries consent to the dispensation;
 - (d) where there are minors, the relationship of the administrators and co-administrators (if any) to the minors and the steps that will be taken to protect the interests of such minors;
 - (e) whether the estate has any creditors and the amount of the debt owed to them, and whether the creditors consent to the dispensation; and
 - (f) any other information which may be relevant to the application.
- (2) In cases where estate duty is payable on the estate, a letter or certificate from the Commissioner of Estate Duties confirming the fact stated in sub-paragraph (1)(b) must be exhibited in the supporting affidavit.
- (3) In cases where no estate duty is payable on the estate, the administrator(s) must state in the affidavit that no estate duty is payable and that the Schedule of Property Forms have been forwarded to the Court.
- (4) The consents in writing of all adult beneficiaries to the dispensation of sureties, duly signed in the presence of a solicitor or any person before whom an affidavit can be sworn or affirmed, must be filed not later than the application for dispensation of sureties.

- (5) For originating summonses for probate or letters of administration filed on or after 1 January 2006, an application for the dispensation of sureties must correspondingly be filed using the Electronic Filing Service and all the exhibits to the supporting affidavit must be book-marked and linked in a manner described in Paragraph 29(2).

120. Filing of schedules of property for non-dutiable estates where death occurs before 15 February 2008

- (1) In addition to the procedures and Forms SC1 to SC8 issued by the Commissioner of Estate Duties (which are available on the Inland Revenue Authority of Singapore website (<http://www.iras.gov.sg>)), the following Directions shall apply in cases where death occurs before 15 February 2008 and no estate duty is payable:
 - (a) The executor or administrator must first determine, based on the relevant checklist (Form SC2 or SC3), that estate duty is not payable on the estate;
 - (b) Upon confirmation that estate duty is not payable, the executor or administrator shall then file a statutory declaration (Form SC1) together with the checklist (Form SC2 or SC3);
 - (c) The schedule of property must also be sworn or affirmed before a Commissioner for Oaths and filed together with the statutory declaration (Form SC1) and checklist (Form SC2 or SC3). In cases where the deceased died domiciled in Singapore, Form SC4 shall be used. In cases where the deceased died domiciled outside Singapore, Form SC5 shall be used.
 - (d) If a supplementary schedule of property needs to be subsequently filed for additional property or value omitted in the original submission, this shall be in Form SC6 or SC7 (for deceased domiciled in and outside Singapore respectively) and sworn or affirmed before a Commissioner for Oaths, provided that the total value of the estate remains non-dutiable;
 - (e) If there are any amendments to the schedule of property or supplementary schedule of property, this shall be filed in Form SC8.
- (2) All the above Forms SC1 to SC8 must be printed or typed. No supporting documents are to be attached to the above Forms.

120A. Filing of schedules of assets for estates where death occurs on or after 15 February 2008

- (1) In relation to deaths occurring on or after 15 February 2008, two copies of Schedule of Assets listing the property comprising the estate of the deceased must be filed. One copy is to be filed under the cover of an affidavit which includes the following averment:

“The contents of the Schedule of Assets exhibited herein as [insert exhibit number] are true and accurate in every particular to the best of my knowledge and belief. The deponent does not know or have any reason to believe that any of the contents of the Schedule of Assets is false.”

- (2) A separate copy of the Schedule of Assets (without an affidavit) is to be filed with the Court. A specimen Schedule of Assets can be found in Form 41A of Appendix B of these Practice Directions.
- (3) The copy of the Schedule of Assets which is required to be filed under the cover of an affidavit may be filed under the cover of the supporting affidavit under Order 71, rule 5, of the Rules of Court. If so included, the supporting affidavit under Order 71, rule 5 shall include the averment referred to in sub-paragraph (1).
- (4) If an applicant is unable to file the Schedule of Assets at the time of the filing of the originating summons or at the time of the filing of supporting affidavit under Order 71, rule 5, the applicant may file the copy of the Schedule of Assets which is required to be filed under the cover of an affidavit under the cover of a supplementary affidavit.
- (5) Where an applicant seeks to amend the Schedule of Assets filed under the cover of an affidavit, a supplementary affidavit exhibiting the amended Schedule of Assets is to be filed with the Court. The applicant must also file a separate copy of the amended Schedule of Assets to be annexed to the grant. The supplementary affidavit shall provide reasons to explain why an amendment is necessary, and shall also include the averment referred to in sub-paragraph (1).

- (6) Where the amendments to the Schedule of Assets are sought following the grant, the applicant must obtain leave of Court to amend the Schedule of Assets.
- (7) No Court fees will be charged for the Schedule of Assets and the affidavits filed pursuant to sub-paragraphs (1) to (5).

121. Caveat searches in non-contentious probate proceedings

- (1) The Directions in this Paragraph shall apply to non-contentious probate proceedings under Order 71 of the Rules of Court.
- (2) Every applicant for a grant under Order 71 of the Rules of Court, or his solicitors, are reminded that they must comply with the requirements of Order 71, Rule 5(2A), of the Rules of Court.
- (3) Prior to filing a request to extract a grant, the applicant or his solicitors must conduct a search on the caveat book for both Courts to ascertain if there any caveats in force against the estate of the deceased, and the request for extraction of the grant must contain a certificate in the following terms:

“It is certified that the caveat book was searched not more than one day before the date of this request and that there are no caveats in force in respect of the estate of the deceased herein”.
- (4) For the purposes of this Direction, “grant” means a grant of any letters of representation in Singapore.